IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4954 of 2007()

CMP.1740/2007 of J.M.F.C.,PARAPPANANGADI

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PETITIONER

HASSAN KUNHI, S/O. KAMMUKUTTY BAVA,
KUTTYKAMMUVINTE PURAKKAL, PANDARAKADAPURAM,
TANUR.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE STATION HOUSE OFFICER, TANUR POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4954 of 2007

Dated this the 14th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for the offences punishable under Section 420 I.P.C. Crime has been registered on the basis of a private complaint filed by the de facto complainant before the learned Magistrate which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The crux of the allegations against the petitioner is that he had sold an item of property to the de facto complainant in 2005. That property was allegedly acquired by the petitioner in 1987. The de facto complainant, after purchase, had allegedly put up a house in the said property. It is alleged that subsequent to the building of the house, officials from the revenue department had come to the de facto complainant and claimed that part of the property belongs to the Government and the house put up by her will have to be demolished. The de facto complainant, in these circumstances, alleges that the petitioner has committed offence of cheating.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He had no clue that such a claim

will be made by the officials of the revenue department. The property was always in the undisputed possession of the petitioner until it was transferred to the de facto complainant. It is submitted, in these circumstances that, at any rate, the petitioner does not deserve to endure the trauma of arrest and detention. Appropriate directions under Section 438 Cr.P.C may be issued, prays the learned counsel for the petitioner.

4. The learned Public Prosecutor does not oppose the said prayer and I am satisfied, in the facts and circumstances to which I have already made brief reference that anticipatory bail can be granted to the petitioner subject to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 21/8/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 22/08/2007 and 23/08/2007 and thereafter on all Mondays and

Fridays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 21/08/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 21/08/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007